

The Honorable Ronald B. Leighton

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

DANA LYNN SARGENT,

Plaintiff,

v.

THE STATE OF WASHINGTON,
LISA GILMAN, in her official and
personal capacity,

Defendants.

NO. 3:18-cv-05119-RBL

DEFENDANTS' ANSWER TO
PLAINTIFF'S COMPLAINT

I. NATURE OF THE ACTION

The allegations in "Section I. Nature of the Claim" are legal conclusions to which no answer is required. To the extent these allegations may be construed as factual allegations, they are denied.

II. JURISDICTION, VENUE, AND PARTIES

2.1 The allegation in paragraph 2.1 of the Complaint is admitted.

2.2 The allegation in paragraph 2.2 of the Complaint is denied.

2.3 Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2.3 of the Complaint and, therefore, denies the same.

2.4 The allegation in paragraph 2.4 of the Complaint is admitted so far as each state agency identified in the Complaint has an office in Olympia, Washington.

2.5 The allegation in paragraph 2.5 of the Complaint is admitted.

2.6 Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2.6 of the Complaint and, therefore, denies the same.

III. FACTUAL BACKGROUND

3.1 Paragraph 3.1 of the Complaint does not contain any factual allegations to which a response is required. To the extent that any response is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3.1 of the Complaint and therefore denies the same.

3.2 Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 3.2 of the Complaint and, therefore, denies the same.

3.3 Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3.3 of the Complaint and, therefore, denies the same.

3.4 Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 3.4 of the Complaint and, therefore, denies the same.

3.5 Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 3.5 of the Complaint and, therefore, denies the same.

3.6 Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3.6 of the Complaint and, therefore, denies the same.

3.7 Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 3.7 of the Complaint and, therefore, denies the same.

3.8 Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3.8 of the Complaint and, therefore, denies the same.

1 3.9 Defendants are without knowledge or information sufficient to form a belief as to the truth
2 of the allegation contained in paragraph 3.9 of the Complaint and, therefore, denies the same.

3 3.10 Defendants are without knowledge or information sufficient to form a belief as to the truth
4 of the allegations contained in paragraph 3.10 of the Complaint and, therefore, denies the same.

5 3.11 Defendants are without knowledge or information sufficient to form a belief as to the truth
6 of the allegation contained in paragraph 3.11 of the Complaint and, therefore, denies the same.

7 3.12 Defendants are without knowledge or information sufficient to form a belief as to the truth
8 of the allegation contained in paragraph 3.12 of the Complaint and, therefore, denies the same.

9 3.13 Defendants are without knowledge or information sufficient to form a belief as to the truth
10 of the allegations contained in paragraph 3.13 of the Complaint and, therefore, denies the same.

11 3.14 The allegation in paragraph 3.14 of the Complaint is admitted.

12 3.15 Defendants are without knowledge or information sufficient to form a belief as to the truth
13 of the allegation contained in paragraph 3.15 of the Complaint and, therefore, denies the same.

14 3.16 The allegation in paragraph 3.16 of the Complaint is denied.

15 3.17 Defendants are without knowledge or information sufficient to form a belief as to the truth
16 of the allegation contained in paragraph 3.17 of the Complaint and, therefore, denies the same.

17 3.18 The allegations in paragraph 3.18 of the Complaint are denied.

18 3.19 Defendants are without knowledge or information sufficient to form a belief as to the truth
19 of the allegation contained in paragraph 3.19 of the Complaint and, therefore, denies the same.

20 3.20 Defendants are without knowledge or information sufficient to form a belief as to the truth
21 of the allegations contained in paragraph 3.20 of the Complaint and, therefore, denies the same.

1 3.21a-e Defendants are without knowledge or information sufficient to form a belief as to the truth
2 of the allegations contained in paragraphs 3.21a-e of the Complaint and, therefore, denies the same.

3 3.21f The allegations in paragraph 3.21f of the Complaint are denied.

4 3.22 The allegations in paragraph 3.22 of the Complaint are denied.

5 3.23 Defendants are without knowledge or information sufficient to form a belief as to the truth
6 of the allegations contained in paragraph 3.23 of the Complaint and, therefore, denies the same.

7 3.24 Defendants are without knowledge or information sufficient to form a belief as to the truth
8 of the allegations contained in paragraph 3.24 of the Complaint and, therefore, denies the same.

9 3.25 Defendants are without knowledge or information sufficient to form a belief as to the truth
10 of the allegation contained in paragraph 3.25 of the Complaint and, therefore, denies the same.

11 3.26 The allegation in paragraph 3.26 of the Complaint is denied.

12 3.27 The allegations in paragraph 3.27 of the Complaint are denied.

13 3.28 The allegation in paragraph 3.28 of the Complaint is denied.

14 3.29 The allegations in paragraph 3.29 of the Complaint are denied.

15 3.30 The allegations in paragraph 3.30 of the Complaint are denied.

16 3.31 Defendants are without knowledge or information sufficient to form a belief as to the truth
17 of the allegation contained in paragraph 3.31 of the Complaint and, therefore, denies the same.

18 3.32 The allegation in paragraph 3.32 of the Complaint is denied.

19 3.33 Defendants are without knowledge or information sufficient to form a belief as to the truth
20 of the allegations contained in paragraph 3.33 of the Complaint and, therefore, denies the same.

21 3.34 The allegations in paragraph 3.34 of the Complaint are denied.

22 3.35 The allegations in paragraph 3.35 of the Complaint are denied.

1 3.36 The allegations in paragraph 3.36 of the Complaint are denied.

2 3.37 Defendants are without knowledge or information sufficient to form a belief as to the truth
3 of the allegation contained in paragraph 3.37 of the Complaint and, therefore, denies the same.

4 3.38 Defendants are without knowledge or information sufficient to form a belief as to the truth
5 of the allegations contained in paragraph 3.38 of the Complaint and, therefore, denies the same.

6 3.39 Defendants are without knowledge or information sufficient to form a belief as to the truth
7 of the allegation contained in paragraph 3.39 of the Complaint and, therefore, denies the same.

8 3.40 Paragraph 3.40 of the Complaint does not contain any allegations to which a response is
9 required. To the extent that any response is required, Defendants deny the allegations.

10 3.41 The allegation in paragraph 3.41 of the Complaint is denied.

11 3.42 The allegation in paragraph 3.42 of the Complaint is denied.

12 3.43 The allegations in paragraph 3.43 of the Complaint are denied.

13 3.44 The allegations in paragraph 3.44 of the Complaint are denied.

14 3.45 The allegation in paragraph 3.45 of the Complaint is denied.

15 3.46 The allegation in paragraph 3.46 of the Complaint is denied.

16 3.47 The allegations in paragraph 3.47 of the Complaint are denied.

17 3.48 The allegations in paragraph 3.48 of the Complaint are denied.

18 **IV. CAUSES OF ACTION**

19 4.1 Paragraph 4.1 of the Complaint does not contain any allegations to which a response is
20 required. To the extent that any response is required, Defendants deny the allegations.

21 4.2 The allegation in paragraph 4.2 of the Complaint is denied.

22 4.3 The allegation in paragraph 4.3 of the Complaint is denied.

23 4.4 The allegation in paragraph 4.4 of the Complaint is denied.

1 4.5 The allegation in paragraph 4.5 of the Complaint is denied.

2 4.6 The allegation in paragraph 4.6 of the Complaint is denied.

3 4.7 The allegation in paragraph 4.7 of the Complaint is denied.

4 4.8 The allegation in paragraph 4.8 of the Complaint is denied.

5 **V. RELIEF REQUESTED**

6 The first paragraph under the section “V. Relief Requested” of the Complaint does not
7 contain any allegations to which a response is required. To the extent that any response is
8 required, Defendants deny the allegations.

9 Multiple allegations were imbedded in most of the paragraphs of the Complaint, and,
10 indeed, in many of the individual sentences in the paragraphs of the Complaint. While
11 Defendants have made every effort to address each allegation, Defendants are aware that it may
12 be possible to interpret that a particular allegation was neither admitted nor denied in this
13 Answer. Accordingly, in addition to the admissions and denials stated herein, Defendants deny
14 any allegation in the Complaint that has not been expressly admitted or denied.
15

16 By Way of FURTHER ANSWER and FIRST AFFIRMATIVE DEFENSE, Defendants
17 allege that at all times they acted in good faith in the performance of their duties and in
18 compliance with the relevant statutes and laws and is immune, and not liable for the matters
19 alleged in Plaintiff’s Complaint.
20

21 By Way of FURTHER ANSWER and SECOND AFFIRMATIVE DEFENSE, Defendants
22 allege that all actions of the Defendants herein alleged as negligence, manifest a reasonable exercise
23 of judgment and discretion by authorized public officials made in the exercise of governmental
24 authority entrusted to them by law and are neither tortious nor actionable.
25
26

1 By Way of FURTHER ANSWER and THIRD AFFIRMATIVE DEFENSE, Defendants
 2 allege that the injuries and damages, if any, claimed by the Plaintiff were proximately caused or
 3 contributed to by the fault of the Plaintiff.

4 By Way of FURTHER ANSWER and FOURTH AFFIRMATIVE DEFENSE, Defendants
 5 allege that if the plaintiff sustained any injury or damage, the same was provoked by the conduct of
 6 the plaintiff.

7 By Way of FURTHER ANSWER and FIFTH AFFIRMATIVE DEFENSE, Defendants
 8 allege that the claims alleged under 42 U.S.C. § 1983 against State employees are barred by the
 9 doctrine of qualified immunity.

10 By Way of FURTHER ANSWER and SIXTH AFFIRMATIVE DEFENSE, Defendants
 11 allege that if the Plaintiff suffered any damages, recovery is therefore barred by Plaintiff's failure
 12 to mitigate said damages.

13 By Way of FURTHER ANSWER and SEVENTH AFFIRMATIVE DEFENSE,
 14 Defendants allege that the plaintiff has failed to state a claim upon which relief may be granted.

15 By Way of FURTHER ANSWER and EIGHTH AFFIRMATIVE DEFENSE, Defendant
 16 the State of Washington, is immune from suit for the matters charged in Plaintiff's Complaint.

17 **VI. RESERVATION OF RIGHT TO AMEND**

18 Defendants reserve the right to amend this Answer, including the addition of affirmative
 19 defenses, counterclaims, cross claims, or by instituting third party actions as additional facts are
 20 obtained through investigation and discovery.

21 ///

22 ///

VII. EXPRESS DENIAL

Defendants deny each and every allegation contained in Plaintiff's Complaint that is not expressly admitted herein.

VIII. DEFENDANT'S PRAYER FOR RELIEF

Defendants respectfully request that Plaintiff's Complaint be dismissed with prejudice and that Plaintiff takes nothing thereby, that Defendants be awarded their costs and reasonable attorneys' fees herein, and for such additional relief as the Court may deem just and equitable.

DATED this _____ day of February, 2018.

ROBERT W. FERGUSON
Attorney General

/s/Patricia D. Todd
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CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of February, 2018, I caused to be electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system and caused to be served a copy of this document on all parties or their counsel of record on the date below as follows:

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I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED this 27th day of February, 2018, at Tumwater, Washington.

ROBERT W. FERGUSON
Attorney General

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